

REMARKS

Claims 11-21 are pending in the present application. New claim 21 was added in this response. No new matter was introduced as a result of the amendment. Favorable reconsideration is respectfully requested.

Applicants note that this RCE is being filed pursuant to a telephone discussion conducted with the Examiner on July 11, 2005, where it was communicated to Applicants that the USPTO administrative staff has not yet processed the response filed on February 10, 2005. After discussing the application, it was determined that the present RCE would be filed to further prosecution of this application, and to minimize additional fees that are unnecessarily being attributed to the Applicants.

Claims 11, 13-18 and 20 were rejected under 35 U.S.C. §102(e) as being allegedly anticipated by *Tiedemann* (U. S. Patent No. 5,859,840). The Applicants respectfully traverse this rejection for the following reasons.

Specifically, *Tiedemann* does not disclose “signaling in-band a subsequently valid allocation of the at least one common channel for one of the plurality of connections in at least one of the channels of the data transmission in accordance with a data rate allocated to the connection” as recited in claim 11 and similarly recited in claims 20 and 21. As was argued previously, *Tiedemann* discloses a system to assign “additional channels.” These additional channels can be assigned to dedicated channels when transmission of high rate data is required (see, e.g., column 5, lines 16-30 and column 6, lines 6-19). As described in *Tiedemann*, these additional channels can be grouped and transmitted to a mobile station during call set-up, which enables the use of only a few bits to identify the channels within the group. Additionally, sets with different numbers of additional channels can be defined.

In light of the above teachings of *Tiedemann*, each of the additional channels to be assigned is still identified individually in an assignment message when sets or groups of the additional channels are defined (see Abstract, col. 2, lines 40-45). In other words, each channel is associated with each respective assignment message in order for the receiving mobile station to know which additional channels are to be used.

In contrast, claim 11 of the present application features, for example, “signaling in-band a subsequently valid allocation of the at least one common channel for one of the plurality of connections in the at least one of the channels of the data transmission in accordance with a data

rate allocated to the connection” and “agreeing upon a relationship between the allocated data rate and the at least one common channel to be used in a separate signaling channel.” In other words, a relation between data rates and common channels is agreed upon using a separate channel. This simply is not taught or suggested by *Tiedemann*. The section of *Tiedemann* referenced in the present Office Action allegedly teaching this feature (i.e., col. 5, lines 22-27; col. 6, lines 10-17) does not teach or suggest this element.

In col. 5, lines 12-30, *Tiedemann* provides:

When data source 20 prepares to transmit high rate data packet, it provides a request signal (REQ) to cell controller 40 of cell base station 12. Cell controller 40 responds by providing an acknowledgment of the request (ACK). Cell controller 40 selects additional channels which will be used for the transmission of the high rate data. In the exemplary embodiment, the pool of possible additional channels that can be used for the transmission of high rate data is pre-defined so that selection can be performed by a simple masking technique as is well known in the art. In another exemplary embodiment sets of additional channels are predefined and channel assignment messages simply identify one of the predefined sets. In an improved embodiment, the pre-defined sets consist of different number of additional channels. Cell controller 40, generates a channel assignment message, which indicates the additional Walsh channel or channels that will be used to carry the high rate data two frames (40 ms) later and provides that message to primary formatter 24.

In this passage, *Tiedemann* demonstrates that the controller indicates which additional channels from the set will be used to carry high rate data. In other words, the additional channels within the sets are identified by further channel assignment messaging. While the Examiner correctly points out that the sets can consist of a different number of channels, it does not follow that the presence or absence of additional channels equates to signaling one of the plurality of connections in the common channel in accordance with the data rate allocated to the channel. The sets in *Tiedemann* are identified through assignment messages the same way that individual channels are identified, as demonstrated above.

With respect to independent claims 20 and 21, these claims contains similar features to the method in claim 11 and, thus, this claim is believed to be allowable at least for the reasons above.

With respect to dependent claims 13-18, these claims are submitted to be allowable on their merits and at least for the reasons presented above with respect to independent claim 12, the claim from which these dependent claims depend.

Claims 12 and 19 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over *Tiedemann* in view of the art discussed in the present application. Without commenting on the merits of this rejection, the Applicants respectfully submit that these claims are allowable on their merits and at least for the reasons presented above with respect to independent claim 11.

In light of the foregoing arguments, the Applicants respectfully submit that the present application is in condition for allowance and request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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